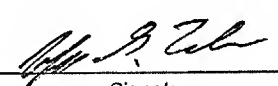


<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>1033-SS00415</b>	
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		Application Number <b>10/651,076</b>	Filed <b>August 28, 2003</b>
		First Named Inventor <b>Michael Grannan, et al.</b>	
		Art Unit <b>3694</b>	Examiner <b>GREGG, Mary M.</b>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <b>38,342</b></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p>		<p style="text-align: center;"> _____ Signature <b>Jeffrey G. Toler</b> _____ Typed or printed name <b>512-327-5515</b> _____ Telephone number <b>10-20-2011</b> _____ Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Michael Grannan, et al.

Title: SYSTEM AND METHOD FOR MANAGING DIGITAL RIGHTS AND  
CONTENT ASSETS

App. No.: 10/651,076 Filed: August 28, 2003

Examiner: GREGG, Mary M. Group Art Unit: 3694

Customer No.: 84326 Confirmation No.: 7264

Atty. Dkt. No.: 1033-SS00415

---

M/S: AF  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**REMARKS IN SUPPORT OF PRE-APPEAL BRIEF  
REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed July 21, 2011 ("Office Action") and further pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, Assignee respectfully requests review and reconsideration of the application in view of the following remarks.

The Office has rejected claims 1-7 and 53-56, under 35 U.S.C. §103(a), as being unpatentable over U.S. Pat. No. 6,362,836 ("Shaw"), in view of U.S. Pat. No. 7,213,005 ("Mourad"), and further in view of U.S. Pat. Pub. No. 2001/0034771 ("Hutsch"). The Office has rejected claims 57 and 58, under 35 U.S.C. § 103(a), as being unpatentable over the combination of Shaw, Hutsch, Mourad and one of U.S. Pat. No. 6,822,663 ("Wang") and U.S. Patent No. 7,203,066 ("Abburi"). As explained further below, the cited portions of Shaw, Mourad, Hutsch, Wang, and Abburi, individually or in combination, fail to disclose or suggest, a content broker configured to "send, to a content provider via a network, the second data record identifying the list of two or more media formats that are compatible with the at least one media device," as in

claim 1. Accordingly, claim 1 is allowable. Claims 2-7 and 53-58 are allowable, at least by virtue of their dependence from an allowable claim.

The Office has rejected claims 8, 59 and 60, under 35 U.S.C. §103(a), as being unpatentable over Abburi in view of Hutsch. The Office has rejected claims 9 and 10, under 35 U.S.C. §103(a), as being unpatentable over the combination of Abburi and Hutsch and one of U.S. Pat. No. 7,054,416 (“Meyerson”) and Wang. As explained further below, the cited portions of Abburi, Hutsch, Meyerson, and Wang, individually or in combination, fail to disclose or suggest “sending device profile information from the content broker system to the content provider system via the network, the device profile information specifying two or more media formats that are compatible with the subscriber media device,” as in claim 8. Accordingly, claim 8 is allowable. Claims 9, 10, 59, and 60 are allowable at least by virtue of their dependence from an allowable claim.

The Office has rejected claims 16-18, 22-24 and 62, under 35 U.S.C. §103(a), as being unpatentable over Wang in view of Hutsch and Mourad and further in view of U.S. Pat. No. 6,832,259 (“Hymel”). The Office has rejected claims 50, 51, and 61, under 35 U.S.C. §103(a), as being unpatentable over Wang, Hutsch, Mourad and Hymel in view of at least one of Abburi, U.S. Pat. No. 7,028,340 (“Kamada”), and U.S. Pat. No. 7,461,142 (“Wadekar”). As explained further below, the cited portions of Wang, Hutsch, Mourad, Hymel, Abburi, Kamada, and Wadekar, individually or in combination, fail to disclose or suggest, at least, a content broker process server to “send a device profile to the remote content provider via a network, wherein the device profile includes information identifying a plurality of media formats that are useable by a subscriber media device of the subscriber,” as in claim 16. Accordingly, claim 16 is allowable. Claims 17, 18, 22-24, 50, 51, 61, and 62 are allowable at least by virtue of their dependence from an allowable claim.

The cited portions of the cited references, individually or in combination, do not disclose or suggest each and every element of the independent claims. For example, the cited portions of the cited references, individually or in combination, do not disclose or suggest a content broker sending, to a content provider, information identifying two or more media formats that are compatible with a media device.

Mourad describes a Secure Digital Content Electronic Distribution System (“SDCED System”) for distribution of digital content (audio, programs, multimedia, video, or other types

of content) for playback or transfer on any standard device (e.g., end-user device) compliant with the SDCED System, where distribution is supported by an open architecture regarding the nature of content and its format. *See* Mourad, col. 9, ll. 52-56; col. 10, ll. 6-13; col. 11, ll. 47-60. The Office asserts, at p. 5, that “Mourad *teaches* ... an architectural structure for sending data record that identifies a list of media formats that are compatible with a particular media device to a content provider.” Assignee respectfully disagrees. Mourad is directed towards the distribution of content for playback/transfer on any compliant device (end-user device) containing an end-user player application compliant with specifications of the SDCED System. *See* Mourad, col. 11, ll. 47-60; col. 14, ll. 55-58. Therefore, the SDCED System described in Mourad is directed to receiving, at an end-user device, content in a format compatible with any compliant device, not to sending information to a content provider to identify two or more media formats compatible with a media device.

The cited portions of Mourad fail to disclose or suggest a content broker sending, to a content provider, information identifying two or more media formats that are compatible with a media device. The Office further asserts, at p. 20, that “Mourad *teaches* a second data record identifying a list of two or more media formats that are compatible with the at least one media device,” *See Also* Office Action, pp. 21-22. Mourad describes a content provider and/or content hosting site transmitting content to an end user device. *See* Mourad, FIG. 6. While Mourad implies that multiple formats may be used, Mourad is silent as to sending, to a content provider, a data record that identifies a list of media formats compatible with a particular media device. The content provider, providing support for a content formatting layer within the SDCED System, offers format conversion (including compression encoding) of content into a format for playback/transfer to a portable device. *See* Mourad, col. 22, ll. 44-51; col. 23, ll. 21-31, ll. 40-44, and ll. 47-53. The cited portions of Mourad fail to suggest or disclose the content provider receiving data identifying more than one media format, thus Mourad fails to suggest sending information, to a content provider, identifying two or more media formats.

Hutsch describes a web-top manager configured to receive a content request from a user device, where the content request includes a content provider identifier. *See* Hutsch, ¶ [0020]. A universal content broker is coupled to the web-top manager and to a plurality of content providers, each content provider responsible for providing content based on the different raw data format. *See* Hutsch, ¶¶ [0165], [0169], [0171], [0174], & [0175]. Upon request for content,

a provider check operation supported by a presentation and logic service (“PL Service”) of the web-top manager, determines whether the PL Service has accessibility to the UCB for the type of information requested, e.g., for the MIME type (media format), the type of information determining the raw data format of the content. The content identifier is used to select a content provider for content having the raw data format. *See* Hutsch, ¶ [0165]. Thus, the request for content is made to a single content provider based on the content identifier, where each content provider is responsible for providing content in a single data format. *See* Hutsch, ¶¶ [0165], [0169], [0171]. The cited portions of Hutsch fail to disclose or suggest a content broker sending, to a content provider, information identifying two or more media formats that are compatible with a media device.

Assignee respectfully submits that the Office has improperly rejected the claims based on an incorrect interpretation of the cited portions of Hutsch. Based on Hutsch describing the PL Service accessing a registry of factories to determine accessibility to the UCB for the requested content, the Office asserts, at pp. 6-7, that Hutsch *teaches* sending information to the factories, which *fairly suggests* the factories encompass content providers. However, accessing the registry of factories pertains to determining accessibility from the PL Service (through components) to the UCB for the requested type of content (raw data format), not to requesting, from UCB to content providers, multiple formats of media content. The requested content is rendered (by the web-top manager) into a displayable page for the user device to allow a user to get content from a provider system regardless of protocol. *See* Hutsch, ¶ [0169]. Therefore, the cited portions of Hutsch fail to disclose or suggest a content broker sending, to a content provider, information identifying two or more media formats that are compatible with a media device.

The Office Action admits that Shaw, Wang, and Abburi fail to teach a content broker sending, to a content provider, information identifying two or more media formats that are compatible with a media device. *See* Office Action, pp. 17-18 and 28. The cited portions of Meyerson, Hymel, Kamada, and Wadekar do not disclose or suggest a content broker sending, to a content provider, information identifying two or more media formats that are compatible with a media device. Accordingly, the cited portions of the cited references, individually or in combination, do not disclose or suggest a content broker sending, to a content provider, information identifying two or more media formats that are compatible with a media device.

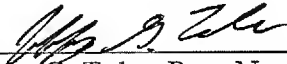
## CONCLUSION

Assignee respectfully traverses each rejection of the Office Action. Assignee has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the references as applied in the Office Action. Accordingly, Assignee respectfully requests reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

10-20-2011  
Date

  
\_\_\_\_\_  
Jeffrey G. Toler, Reg. No. 38,342  
TOLER LAW GROUP  
8500 Bluffstone Cove, Suite A201  
Austin, TX 78759  
Telephone: (512) 327-5515  
Facsimile: (512) 327-5575